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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/734,814

12/12/2003

Gary Santoro

16092

2794

39747

7590

07/01/2004

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EXAMINER

CLARKE, SARA SACHIE

ART UNIT

PAPER NUMBER

3749

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/734,814

Applicant(s)

SANTORO, GARY

Examiner

Sara Clarke

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                | Paper No(s)/Mail Date. ____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/12/03</u> .  | 6) <input type="checkbox"/> Other: ____                                     |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 2 are rejected under 35 U.S.C. 102(a) and 102(e) as being anticipated by Gerassi (U.S. Pub. No. 2003/0211049).

Gerassi discloses the invention as claimed including a cigarette lighter device 20 having a lighting mechanism 24, a housing member 22, and an external side surface (the bottom side of the reservoir 22); and a breath freshening dispenser 40 attached to said side surface for holding a plurality of edible breath fresheners.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Doo-Seok (US 5364263).

Doo-Seok discloses the invention as claimed including a cigarette lighter device 10 having a lighting mechanism 1, a housing member 7, and an external side surface; and a breath freshening dispenser 28 attached to said side surface for holding a plurality of edible breath fresheners. Fig. 6 shows the external side surface including a

pair of mounted parallel tracks 31 for attaching the breath freshening dispenser 28 to the cigarette lighter device.

Regarding the claim limitation of the dispenser being used for edible breath fresheners, see MPEP 2131.05.

Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Whittaker (US 2071601).

Whittaker discloses the invention as claimed including a cigarette lighter device having a lighting mechanism 20, a housing member 1, and an external side surface (including back wall 2); and a breath freshening dispenser attached to said side surface for holding a plurality of edible breath fresheners. The breath freshening dispenser includes a hinged cover 6 for easily accessing the edible breath fresheners therein.

Regarding the claim limitation of the dispenser being used for edible breath fresheners, see MPEP 2131.05.

### ***Conclusion***


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Newberg (US 2697297), Leitheuser (US 1831014), Hoffman (DE 3833813 A1), Wey (WO 88/07650), and Lowenthal (GB 2175075) disclose various lighter/container combinations. Harris (US 2352319) discloses a combination lighter/pill dispenser.

### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sara Clarke whose telephone number is (703)308-1388. The examiner can normally be reached on Mon-Fri, 8:30-1:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached at (703)308-1935. The fax phone number for the organization where this application is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sara Clarke   
Primary Examiner  
Art Unit 3749

June 23, 2004